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7 IN THE UNITED STATES DISTRICT COURT
8 FOR THE TERRITORY OF GUAM

9 UNITED STATES OF AMERICA,
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11 Plaintiff,
12 vs.
13 MATEO B. SARDOMA, JR. aka "MAT",
14 Defendant.

CRIMINAL CASE NO. 12-00010

**ORDER DENYING MOTION TO
INTERVIEW DISCHARGED JURORS**

15 Before the court is a Motion to Interview Discharged Jurors (hereinafter "Motion"). *See*
16 Mot., ECF No. 653. For the reasons stated herein, the Motion is hereby **DENIED**.

17 I. **BACKGROUND**

18 On October 29, 2013, the jury found Defendant Mateo B. Sardoma, Jr., (hereinafter
19 "Defendant Sardoma") guilty of all counts relating to him, with the exception of Count 24.¹
20 Thereafter, the court received information of potential jury misconduct and consequently ordered
21 the parties to brief the issue.²

22 On February 21, 2014, Defendant Rudy P.H. Sablan (hereinafter "Defendant Sablan")
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24 ¹ For purposes of this Motion, the court will only discuss facts relevant to Defendant Mateo B. Sardoma, Jr.

² The court initially set the evidentiary hearing for November 4, 2013, but due to some events that necessitated the continuances, the evidentiary hearings are now set for March 18 and 19, 2014.

1 filed the instant Motion. *Id.* Therein, Defendant Sablan, through his counsel, requests that he be
2 allowed to interview all the former jurors in this case, including Brandi-Jo H. Fiti, Shalina-Iona
3 C. Matanane, Junadyn L. Hautea, and Robert D. Cook. *Id.* Defendant Sardoma filed a joinder to
4 Defendant Sablan’s Motion. *See* Joinder, ECF NO. 654.³

5 II. **DISCUSSION**

6 Federal courts disfavor post-verdict interviews of jurors by persons connected with the
7 case. *See United States v. Sanchez*, 380 F. Supp. 1260, 1265 n.12 (N.D. Tex. 1973). As the U.S.
8 Supreme Court puts it:

9 [L]et it once be established that verdicts solemnly made and publicly returned into
10 court can be attacked and set aside on the testimony of those who took part in
11 their publication and all verdicts could be, and many would be, followed by an
12 inquiry in the hope of discovering something which might invalidate the finding.
13 Jurors would be harassed and beset by the defeated party in an effort to secure
14 from them evidence of facts which might establish misconduct sufficient to set
15 aside a verdict. If evidence thus secured could be thus used, the result would be to
16 make what was intended to be a private deliberation, the constant subject of
17 public investigation; to the destruction of all frankness and freedom of discussion
18 and conference.

14 *McDonald v. Pless*, 238 U.S. 264, 267-68 (1915). Echoing this long-held rule, the Ninth Circuit
15 discourages counsel from conducting post-trial interviews. *See Traver v. Meshriy*, 627 F.2d 934,
16 941 (9th Cir. 1980). The Ninth Circuit also notes that in a federal case, “it is improper and
17 unethical for lawyers to interview jurors to discover what was the course of deliberation of a trial
18 jury.” *Smith v. Cupp*, 457 F.2d 1098, 1100 (9th Cir. 1972) (citing *Northern Pacific Railway Co.*
19 *v. Mely*, 219 F.2d 199, 202 (9th Cir. 1954)).

20 In *Smith*, the appellate court affirmed the trial court’s refusal to allow post-verdict
21 interview of jurors “for the purpose of discovering possible, but unspecified, jury misconduct[.]”
22 457 F.2d at 1100; *see also United States v. Cauble*, 532 F. Supp. 804, 810 (E.D. Tex. 1982) (a
23 convicted defendant relying on speculation unsupported by any evidence should not be allowed
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³ Defendant Sablan has since entered into a plea agreement.

1 to engage in a jury misconduct fishing expedition). Similar to *Smith* and *Cauble*, Defendant
2 Sardoma failed to present any specific information of jury misconduct as to former juror
3 numbers 2, 3, 5, 6, 8, 10, 11, 12, 13, 14, 15, 16, 17, and 18. Rather, Defendant Sardoma merely
4 speculates that “[s]uch interviews *may* lead to other unknown misconduct . . .” *See* Joinder at 1,
5 ECF No. 654 (emphasis added).

6 As to former jurors Brandi-Jo H. Fiti, Shalina-Iona C. Matanane, Junadyn L. Hautea, and
7 Robert D. Cook, the court finds that while there is evidence of jury misconduct,⁴ the court
8 nonetheless denies the Motion because post-verdict interview of these individuals will be under
9 the strict supervision and control of the court at the evidentiary hearing.⁵ This is done to ensure
10 that jurors being questioned do not feel undue pressure or feel that they are being harassed or
11 intimidated. *See United States v. Moten*, 582 F.2d 654, 667 (2d Cir. 1978) (In the Second Circuit,
12 “a district judge has the power, and sometimes the duty, to order that all post-trial investigation
13 of jurors shall be under his supervision,” in the interest of protecting the jurors).

14 III. CONCLUSION

15 Based on the foregoing, the court hereby **DENIES** the Motion to Interview Discharged
16 Jurors.

17 **SO ORDERED.**



18 /s/ Frances M. Tydingco-Gatewood
19 Chief Judge
20 Dated: Mar 17, 2014

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23 ⁴ The court notes that “not every incident of juror misconduct requires a new trial.” *Anderson v. Calderon*, 232 F.3d
24 1053, 1098 (9th Cir. 2000), *overruled on other grounds by Osband v. Woodford*, 290 F.3d 1036, 1043 (9th Cir.
2002). The issue of whether the misconduct warrants a new trial will be addressed upon the completion of the
evidentiary hearing and oral argument on the motion.

⁵ The list of questions this court had prepared for the evidentiary hearing took into consideration the proposed
questions submitted by all parties.